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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,179	11/25/2003	Cin Kim	04394/0200136-US0	1178
7278	7590	12/29/2006		
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER	
			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			.3781	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/707,179	Applicant(s) KIM, CIN	
	Examiner Tri M. Mai	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8-11 and 14 is/are pending in the application.
- 4a) Of the above claim(s) 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6 and 8-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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1. Claim 14 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention as previously set forth. Applicant previously elected the species of Fig. 1, Group A as set forth in the election requirement dated 05/19/06.

2. Claims 1-3, 5-6, and 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“the member” has no antecedent basis. Should be changed to “the elastic member”

3. Claims 1, 2, 5, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Heynen (1662039). Heynen teaches a package having a necktie, a box having a bottom portion and a movable top portion, a continuous elastic member 3

Regarding claim 10, the recitation “configured to retain the necktie” in a rolled position is an intended use. In the very least, the elastic member is hidden when the top is closed.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heynen in view of Lobner. It would have been obvious to one of ordinary skill in the art to provide the neckties in a fold condition as taught by either Bracken (2129905) or Fleisch (386807) to hold the neckties neatly.

5. Claim 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heynen in view of Lobner. Lobner teaches the position of a retaining strap are on a center line. It would have been obvious to one of ordinary skill in the art to position the strap at the centerline to provide the desired position for holding the neckties.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heynen in view of Sanchez or Hallam. Sanchez teaches a fabric cover 72. It would have been obvious to

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one of ordinary skill in the art to provide a fabric cover in Heynen to provide attractive color and/or for advertisement. With respect to the matching color with the tie. It would have been obvious to one of ordinary skill in the art to provide a tie with matching color and patten to provide the desired aesthetic look. It is noted that matter relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947)

7. Claims 1, 2, 3, 5, 6, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleisch or Lobner in view of Gordon (766242). Either Fleisch or Lobner teaches a container for a necktie. Trachtenberg teaches that it is known in the art to provide a retaining means by using elastic straps C, pg. 1, ln. 61. It would have been obvious to one of ordinary skill in the art to provide an elastic strap for retaining the neckties to provide an alterative retaining means.

Regarding claim 6, it would have been obvious to one of ordinary skill in the art to position the strap at the centerline to provide the desired position for holding the neckties. It is well known art to rearrange parts of an invention involves only routine skill in the art, see In Re Japikse, 86 USPQ 70 (CCPA) 1950.

Regarding claim 11, note that recitation "configured to retain" is an intended use. Furthermore, in the very least the ties in Fleisch is rolled at the upper portion and the elastic member is hidden when the container is closed by the top portions.

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Either Fleisch or Lobner rejections, as set forth in paragraph 7, and further in view of Sanchez or Hallam. Sanchez teaches a fabric cover 72. It would have been obvious to one of ordinary skill

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in the art to provide a fabric cover in Heynen to provide attractive color and/or for advertisement.

With respect to the matching color with the tie. It would have been obvious to one of ordinary skill in the art to provide a tie with matching color and patten to provide the desired aesthetic look. It is noted that matter relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. In re Seid, 161 F.2d 229, 73 USPQ 431 (CCPA 1947)

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Tri M. Mai
Primary Examiner
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